

**STATE OF LOUISIANA**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF**

**ST MARY PARISH GOVERNMENT**

**AI # 9340**

**PROCEEDINGS UNDER THE LOUISIANA  
ENVIRONMENTAL QUALITY ACT  
LA R S 30 2001, ET SEQ**

\* **Settlement Tracking No**  
\* **SA-AE-08-0016**  
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\* **Enforcement Tracking No**  
\* **AE-CN-07-0183**  
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**SETTLEMENT**

The following Settlement is hereby agreed to between St Mary Parish Government (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La R S 30 2001, et seq (“the Act”)

**I**

Respondent is a governmental entity who operates a municipal solid waste landfill facility located at 752 Thorguson Drive in Berwick, St Mary Parish, Louisiana (“the Facility”)

**II**

On November 2, 2007, the Department issued to Respondent a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No AE-CN-07-0183, which was based upon the following findings of fact

The Respondent owns and/or operates the Harold J “Babe” Landry Landfill, a municipal solid waste landfill located at 752 Thorguson Drive in Berwick, St Mary Parish, Louisiana The facility does not currently operate under an air permit

The Respondent's facility is subject to 40 CFR 60 Subpart WWW—Standards of Performance for Municipal Solid Waste Landfills, promulgated on March 12, 1996, which language has been adopted as a Louisiana regulation in LAC 33 III 3003. This subpart applies to municipal solid waste landfills that commenced construction, reconstruction, or modification on or after May 30, 1991. The Respondent's facility became subject to this subpart after a modification to the facility that was approved on or about October 4, 2002, which increased the design capacity of the facility to 3.2 million megagrams. According to a letter from the Respondent dated October 19, 2007, construction of the approved expansion began on or about August 30, 2004.

On or about October 25, 2007 a file review of the Harold J. "Babe" Landry Landfill was performed to determine the degree of compliance with the Act and the Air Quality Regulations. While the Department's investigation is not yet complete, the following violations were noted during the course of the file review:

- A. According to 40 CFR 60.757(a)(3), an amended design capacity report providing notification of an increase in the design capacity of the landfill shall be submitted within ninety (90) days of an increase in the maximum design capacity of the landfill to or above 2.5 million megagrams and 2.5 million cubic meters. According to a letter from the Respondent dated October 19, 2007, construction of the approved expansion to 3.2 million megagrams began on or about August 30, 2004. The Respondent failed to submit the facility's amended design capacity report within ninety (90) days of an increase in the maximum design capacity of the landfill in violation of 40 CFR 60.757(a)(3) which language has been adopted as a Louisiana regulation in LAC 33 III 3003, and La. R.S. 30:2057(A)(2).
- B. According to 40 CFR 60.757(b), an initial nonmethane organic compounds (NMOC) emission rate report shall be submitted within ninety (90) days after the date of commenced construction, modification, or reconstruction for landfills that commenced construction, modification, or reconstruction on or after March 12, 1996. According to a letter from the Respondent dated October 19, 2007, construction of the expansion that resulted in the increase in the facility's design capacity to 3.2 million megagrams commenced on or

about August 30, 2004. The Respondent failed to submit the facility's initial NMOC emission rate report within ninety (90) days in violation of 40 CFR 60.757(b) which language has been adopted as a Louisiana regulation in LAC 33:III 3003, and La. R.S. 30:2057(A)(2).

- C According to 40 CFR 60.757(c), if the emission rate reported in the initial NMOC report equals or exceeds 50 megagrams per year, the owner or operator may elect to recalculate the NMOC emission rate after Tier 2 NMOC sampling and analysis and submit a revised NMOC emission rate report. The revised NMOC emission rate report shall be submitted within 180 days of the initial NMOC emission rate report. During a meeting with the Department on October 19, 2007, the Respondent stated that Tier 1 calculations were above the 50 megagrams threshold and indicated its intent to conduct Tier 2 NMOC sampling and analysis. The Respondent failed to submit a revised NMOC emission rate report within 180 days of the initial NMOC emission rate report in violation of 40 CFR 60.757(c)(1) which language has been adopted as a Louisiana regulation in LAC 33:III 3003, and La. R.S. 30:2057(A)(2).
- D According to 40 CFR 60.757, the owner or operator shall submit annual periodic reports of the facility's NMOC emission rate. The Respondent failed to submit annual periodic reports of the facility's NMOC emission rate in violation of 40 CFR 60.757 which language has been adopted as a Louisiana regulation in LAC 33:III 3003, and La. R.S. 30:2057(A)(2).
- E According to 40 CFR 60.752(b), the owner or operator of a municipal solid waste landfill subject to 40 CFR 60 Subpart WWW with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters, and not otherwise subject to Part 70, is subject to Part 70 permitting requirements, and becomes subject to the requirements of 40 CFR 70.5(a)(1)(i) no later than ninety (90) days after the date of commenced construction, modification, or reconstruction for municipal solid waste landfills that commence construction, modification, or reconstruction on or after March 12, 1996. According to 40 CFR 70.5(a)(1)(i), a timely application for a source applying for a Part 70 permit for the first time is one submitted within 12 months after the source becomes subject to the permit program. The Respondent failed to submit the facility's Part 70 permit application, in violation of 40 CFR 60.752(b) which language has been adopted as a Louisiana regulation in LAC 33:III 3003, LAC 33:III 501 C 1, LAC 33:III 501 C 2, and La. R.S. 30:2057(A)(2).

### III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties

### IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of EIGHT HUNDRED FORTY-FOUR AND 80/100 DOLLARS (\$844.80) of which Four Hundred Fifty-four and 88/100 Dollars (\$454.88) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

### V

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order and Notice of Potential Penalty, and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

### VI

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may

be required for interpretation of this agreement in any action by the Department to enforce this agreement

## VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R S 30 2025(E) of the Act

## VIII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. Mary Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice

## IX

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A)

X

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement

XI

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions

ST MARY PARISH GOVERNMENT

BY Paul P. Naguin, Jr.  
(Signature)  
PAUL P. NAGUIN, JR.  
(Print)  
TITLE PARISH PRESIDENT

THUS DONE AND SIGNED in duplicate original before me this 25<sup>th</sup> day of  
JUNE, 20 08, at FRANKLIN, ST. MARY PARISH, LOUISIANA.

Henry C. Lagrange  
NOTARY PUBLIC (ID # 62919)  
HENRY C. LAGRANGE  
(Print)

LOUISIANA DEPARTMENT OF  
ENVIRONMENTAL QUALITY  
Harold Leggett, Ph D , Secretary

BY Peggy M. Hatch  
Peggy M. Hatch, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 24<sup>th</sup> day of  
September, 20 08, at Baton Rouge, Louisiana

Jeff B. Boyle, II  
NOTARY PUBLIC (ID # 40535)  
Jeff B. Boyle, II  
(Print)

Approved Peggy M. Hatch  
Peggy M. Hatch, Assistant Secretary